

## 3.1.4

(הכא לחומרא והכא לחומרא) → 7a (ת"ד) 6a

Note: the משנה (ר"ה א:א) designates a date in שבט as the "new year" for trees – ב"ה maintains that it is שבט ט"ו בשבט and א' שבט holds that it is שבט ב"ש

החכם עיניו בראשו והפסיל בחשך הולך וידעתי גם אני שמקרה אחד יקרה את כלם: קהלת ב, יז

- I. עירוב re: making a רשות הרבים accessible to an עירוב
- a. *ת"ק* לחי וקורה, on one side צורת הפתח *ת"ק* on the other
  - b. *ב"ה* requires 2 doors (one on each side); *ב"ה* require 1 door and לחי וקורה on other side
  - c. *Challenge*: *ר' יהודה* proposed that if you have 2 houses on facing sides of *ר"ה*, you could make them passable with לחי on each side – and *רבנן* responded that you cannot be *ר"ה*
    - i. *And*: *ר' יוחנן*'s ruling re: ירושלים (and *עולא*'s ruling re: מחווא) – if doors weren't locked at night, there would be no way to avoid חיוב חטאת for carrying there
  - d. *Rather*: the *ברייתא* is addressing making a מפולש מבוי accessible to an עירוב
    - i. *דב*: follows *ת"ק* – need *צוה"פ* on one side and לחי וקורה on other side
    - ii. *שמואל*: rules like *חנניה* (per *ב"ה*) – 1 door and לחי וקורה on other side
      1. *Question*: according to *שמואל*, must door be locked at night?
      2. *Answer*: reports that *שמואל* himself did not require *נעילה*
        - a) *Including*: report from *נהרדעא* that gates couldn't be closed yet *שמואל* carried there
        - b) *However*: *ר"נ* required that they move the dirt away from the gates
          - i. *Block*: he doesn't require that the gates be closed, rather able to be closed
- II. מבוי in נהרדעא was crooked (מבוי עקום) they attached the חומרות of רב and *שמואל* and required doors on both sides
- a. *דב*: we consider it like מפולש (see p. 3)
    - i. *However*: *רב* himself ruled like *ת"ק* here (only need *צוה"פ*)
  - b. *שמואל*: ruled like *חנניה* and required a door
    - i. *However*: *שמואל* himself ruled that such a מבוי is considered סתום
      1. *Therefore*: we attach חומרא of רב – considered מפולש
  - c. *Question*: how can we accept both חומרות – we should require consistency in פסק
    - i. *Per*: *הלכה* (תוספתא עדיות, סוכה in איג) follows *ב"ה*
      1. *However*: one may follow all חומרות and קולות of either *ב"ש* or *ב"ה*
      2. *but*: one who follows the leniencies of both is considered a רשע
      3. *And*: one who follows the חומרות of both is considered a fool (v. 1)
        - a) *Note*: Internal problem in *ברייתא* כב"ה yet allows for adherence to either school
          - i. *Answer*#1: before/after בת-קול that confirmed *ב"ה*'s status (ahead: יג)
          - ii. *Answer* #2: after בת-קול; agree/disagree with *ר' יהושע* who rejected the בת-קול
          - iii. *Answer* #3: when we find 2 תנאים or אמוראים disagreeing in the same fashion as *ב"ה/ב"ש*, must follow one school consistently
        - b) *Nonetheless*: we have a challenge to our ruling like רב and *שמואל* here – both חומרות
  - d. *Answer* (*רנב"י*): it all follows רב – (even the requirement of a door)
    - i. *Per*: *הלכה* ואין מורין כן) *רב* report that *רב* agreed with *ת"ק* but wouldn't publicly rule that way
      1. *Challenge*: *ראב"א* reported that *רב* would publicly rule like *ת"ק* (הלכה ומורין כן)
  - e. *Answer* (*ר' שיזבי*): only limitation is accepting mutually exclusive rulings
    - i. *Example*: אהלות ב:ג - dispute *ב"ש/ב"ה* as to how much of skeleton or skull is missing such that *ט"מ* is כשעורה
      1. *And*: *משנה* adds that same positions hold for definition of a טריפה
      2. *Therefore*: may not rule like *ב"ש* (e.g.) re: *ט"מ* and like *ב"ה* re: טריפה
    - ii. *Challenge*: *ר"ע* once picked an אתרוג during 1<sup>st</sup> two weeks of שבט and practiced both מעשרות (see note)
      1. *Answer*: *ר"ע* was unsure which position was *ב"ש* and which *ב"ה* → separated both לחומרא